

Sec. 502.053. COST OF MANUFACTURING LICENSE PLATES OR REGISTRATION INSIGNIA. (a) The Texas Department of Transportation shall reimburse the ~~[institutional division of the]~~ Texas Department of Criminal Justice for the cost of manufacturing license plates or registration insignia as the license plates or insignia and the invoice for the license plates or insignia are delivered to the Texas Department of Transportation.

(b) When manufacturing is started, the *Texas Department of Criminal Justice, the Texas Department of Transportation, and the Texas Building and Procurement Commission, after negotiation*, ~~[General Services Commission]~~ shall set the price to be paid for each license plate or insignia. The price must be determined from:

- (1) the cost of metal, paint, and other materials purchased;
- (2) the inmate maintenance cost per day;
- (3) overhead expenses;
- (4) miscellaneous charges; and
- (5) a previously approved amount of profit for the work.

(c) The annual profit received by the ~~[institutional division of the]~~ Texas Department of Criminal Justice from all contracts for the manufacturing of license plates or related manufacturing may not be less than the profit received by the Texas Department of Corrections for manufacturing license plates for use in 1974.

SECTION 8. This Act takes effect September 1, 2003.

Passed by the House on April 14, 2003, by a non-record vote; passed by the Senate on May 28, 2003: Yeas 31, Nays 0.

Approved June 20, 2003.

Effective September 1, 2003.

CHAPTER 1057

H.B. No. 1378

AN ACT

relating to certain duties and information regarding water planning and development matters in the state.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 9.002 through 9.009, 9.016, and 9.017, Water Code, are amended to read as follows:

Sec. 9.002. CREATION AND MEMBERSHIP. (a) The council *is created to provide the governor, lieutenant governor, speaker of the house of representatives, and legislature with the resource of a select council with expertise on state water issues and consists of 15* ~~[13]~~ members as follows:

- (1) the chairman, or a board member designated by the chairman, of the Texas Water Development Board;
- (2) the chairman, or a commissioner designated by the chairman, of the commission;
- (3) the chairman, or a commissioner designated by the chairman, of the Parks and Wildlife Commission;
- (4) the commissioner of agriculture;
- (5) the commissioner of the General Land Office;
- (6) three members of the house of representatives appointed by the speaker of the house of representatives;
- (7) *three* ~~[two]~~ members of the senate appointed by the lieutenant governor; and

(8) ~~four~~ ~~three~~ members of the general public appointed by the governor, one representing groundwater management, one representing surface water management, ~~and~~ one representing the environmental community, ~~and one representing the coastal region.~~

(b) *Except as provided by Subsection (c), council* ~~Council~~ members may not delegate participation or council duties to staff.

(c) *A council member who is a member of the governing body of a state agency may delegate participation and council duties to the agency's executive administrator, executive director, or deputy commissioner, as appropriate.*

Sec. 9.003. TERMS. (a) *Public members serve staggered three-year terms* ~~[Except for the commissioner of the General Land Office and the commissioner of agriculture, council members who are officials of state agencies serve terms as determined by the chairman of each agency].~~

(b) *Public* ~~Council members who are members of the general public serve staggered six-year terms with the term of one member expiring August 31 of each odd-numbered year.~~

~~[(e) Council]~~ members may be reappointed to serve additional terms.

(c) *Legislative members serve at the discretion of the original appointing authority.*

(d) A vacancy on the council shall be filled by appointment by the original appointing authority for the unexpired term.

Sec. 9.004. OFFICERS OF THE COUNCIL. (a) *The council shall elect a chair from among the legislative members of the council.* ~~The [governor shall appoint a council member as the] chair of the council shall serve [for] a two-year term [expiring May 31 of each even-numbered year].~~

(b) *The council shall alternate the selection of the chair every two years between a house and senate council member* ~~[have a secretary of the council who serves at the pleasure of the council and is accountable only to the council].~~

Sec. 9.005. COUNCIL STAFF. On request by the council, ~~the senate and house standing committees with primary responsibility over water resource management, the commission, the Parks and Wildlife Department, the Department of Agriculture, and the Texas Water Development Board shall provide any staff~~ ~~[other than the secretary of the council]~~ necessary to assist the council in the performance of its duties.

Sec. 9.006. MEETINGS. (a) *The council shall conduct public meetings at the discretion of the chair at least twice a year* ~~[meet at least once in each calendar quarter].~~ ~~Eight~~ ~~[Six]~~ members constitute a quorum.

(b) The council is subject to Chapters 551 and 2001, Government Code.

Sec. 9.007. COMPENSATION OF MEMBERS. (a) Members of the council serve without compensation but *public members* may be reimbursed by legislative appropriation for actual and necessary expenses related to the performance of council duties.

(b) Reimbursement under Subsection (a) is subject to the approval of the council ~~[chair]~~.

Sec. 9.008. POWERS AND DUTIES OF COUNCIL. (a) *The governor, lieutenant governor, and speaker of the house of representatives may issue charges to the council on state water issues. The council shall provide recommendations to the governor, lieutenant governor, or speaker of the house of representatives, as appropriate, based on the charges* ~~[The council shall:~~

~~(1) heighten the level of dialogue on significant water policy issues and, in an advisory role only, strive to provide focus and recommendations on state water policy initiatives, including:~~

~~(A) promoting flexibility and incentives for water desalination, brush control, regionalization, weather modification projects, and public-private partnerships relating to water projects;~~

~~(B) promoting adequate financing for surface water and groundwater projects;~~

~~(C) development of water conservation and drought management projects;~~

~~(D) implementation of approved regional and state water plans;~~

~~[(E) encouraging commonality of technical data and information such as joint agency studies, freshwater inflow recommendations, surface water and groundwater availability models, and bay and estuary and instream flow recommendations developed by the Parks and Wildlife Department, the commission, and the Texas Water Development Board; and~~

~~[(F) encouraging the use of supplemental environmental projects for water infrastructure needs and enhancing the aquatic environment and habitat in enforcement proceedings at a state agency or political subdivision;~~

~~[(2) encourage the enhancement and coordination of state, interstate, and international efforts to improve environmental quality and living conditions along the Texas-Mexico border;~~

~~[(3) coordinate a unified state position on federal and international water issues; and~~

~~[(4) advise the Texas Water Development Board on developing criteria for prioritizing the funding of projects in the state water plan].~~

(b) If the governor, lieutenant governor, or speaker of the house of representatives does not issue charges to the council, the council may create a list of state water issues and present the list to the governor, lieutenant governor, and speaker of the house of representatives. The governor, lieutenant governor, and speaker of the house of representatives may select a total of not more than four issues from the list. The council shall provide recommendations based on that list.

(c) The council may draft and review proposed legislation, for purposes of recommendation only, to communicate specific policy changes that may be needed.

(d) The council may request reports from river authorities, surface water authorities, and water districts.

(e) The council shall coordinate its efforts with the senate and house standing committees with primary responsibility over water resource management.

(f) The council may appoint subcommittees of council members to analyze specific issues within charges to the council or issues selected from the council's list by the governor, lieutenant governor, and speaker of the house of representatives.

(g) The council may appoint a technical committee to analyze specific issues within charges to the council or issues selected from the council's list by the governor, lieutenant governor, and speaker of the house of representatives. The technical committee may contain noncouncil members.

(h) The council may not:

- (1) adopt rules;*
- (2) regulate water use, water quality, or any other aspect of water resource management;*
- (3) plan or construct water resource projects or have such projects planned or constructed;*
- (4) grant or lend money for the construction of water resource projects;*
- (5) establish water resource management standards or otherwise usurp the authority of or infringe upon the duties, responsibilities, or powers of local, regional, or state water management entities, including groundwater districts, river authorities and compacts, regional water planning groups, or member agencies of the council; or*
- (6) consider or discuss a specific permit or project or recommendation for a project until the water permit has been issued by the state and all motions for rehearing have been overruled.*

Sec. 9.009. REPORT. *(a) The council shall submit a report on its recommendations [Not later than December 1 of each even-numbered year, the council shall submit a report] to the governor, lieutenant governor, and speaker of the house of representatives and to the senate and house standing committees with primary responsibility over water resource management not later than December 31 each year [and financing].*

(b) The report must include *recommendations* ~~[findings of]~~ the council made *on charges issued by or issues selected from the council's list by the governor, lieutenant governor, and speaker of the house of representatives during the year* ~~[in the periodic reviews of authorities during the preceding two-year period and any other findings and recommendations the council considers necessary]~~.

(c) *The governor, lieutenant governor, and speaker of the house of representatives may request additional reports on specific charges at any time.*

(d) *The council may request reports from committees established under Sections 9.008(f) and (g).*

Sec. 9.016. PUBLIC PARTICIPATION. The council shall encourage public *participation at council meetings and public input* regarding the council's purpose, the exercise of its powers and duties under Section 9. 008, and its preparation of the report described in Section 9.009~~, and its analysis of authorities under Sections 9.010 and 9.011]~~.

Sec. 9.017. DISSOLUTION OF COUNCIL AND ACCOUNT. Unless extended by the 79th ~~[78th]~~ Texas Legislature, this chapter and the interagency water advisory account expire on *December 31* ~~[September 1]~~, 2005.

SECTION 2. Sections 15.005(a), (b), and (d), Water Code, are amended to read as follows:

(a) On submission of a project application under this chapter, the *executive administrator* ~~[development fund manager]~~ shall determine if the application includes a project that will have flood control as one of its purposes and if the political subdivision submitting the application includes all of the watershed in which the project is to be located.

(b) If the *executive administrator* ~~[development fund manager]~~ finds that the application includes a project that has flood control as one of its purposes and that the watershed in which the project is located is partially located outside the political subdivision inaking the application, the *executive administrator* ~~[development fund manager]~~ shall require the applicant to submit a written memorandum of understanding relating to the management of the watershed in which the project is to be located.

(d) The board shall not consider any application for which a memorandum of understanding must be filed under this section until that memorandum of understanding is filed with the *executive administrator* ~~[development fund manager]~~.

SECTION 3. Section 16.012(m), Water Code, is amended to read as follows:

(m) The executive administrator may conduct surveys of entities using groundwater and surface water *for municipal, industrial, power generation, or mining purposes* at intervals determined appropriate by the executive administrator to gather data to be used for long-term water supply planning. Recipients of the survey shall complete and return the survey to the executive administrator. A person who fails to timely complete and return the survey is not eligible for funding from the board for board programs and is ineligible to obtain permits, permit amendments, or permit renewals from the commission under Chapter 11. A person who fails to complete and return the survey commits an offense that is punishable as a Class C misdemeanor. ~~[Surveys obtained by the board from nongovernmental entities are excepted from the requirements of Section 552.021, Government Code, unless otherwise directed in writing by the person completing the survey.]~~ This subsection does not apply to survey information regarding windmills used for domestic and livestock use.

SECTION 4. Section 16.012, Water Code, is amended by adding Subsection (n) to read as follows:

(n) *Information collected through field investigations on a landowner's property by the executive administrator after September 1, 2003, solely for use in the development of groundwater availability models under Subsection (l) of this section that reveals site-specific information about such landowner is not subject to Chapter 552, Government Code, and may not be disclosed to any person outside the board if the landowner on whose land the information is collected has requested in writing that such information be deemed confidential. If a landowner requests that his or her information not be disclosed, the executive administrator may release information regarding groundwater information only if the information is summarized in a manner that prevents the identification of an individual or*

specific parcel of land and the landowner. This subsection does not apply to a parcel of land that is publicly owned.

SECTION 5. Section 16.053, Water Code, is amended by amending Subsections (d) and (e) and adding Subsection (e-1) to read as follows:

(d) The board shall provide guidelines for the consideration of existing regional planning efforts by regional water planning groups. The board shall provide guidelines for the format in which information shall be presented in the regional water plans. ~~[The board by rule shall require a holder of a surface water permit, a certified filing, or a certificate of adjudication for surface water, a holder of a permit for the export of groundwater from a groundwater conservation district, a retail public water supplier, a wholesale water provider, an irrigation district, and any other person who is transporting groundwater or surface water 20 miles or more to report to the board information on certain water pipelines and other facilities that can be used for water conveyance. Nothing in the initial planning effort shall prevent development of a management plan or project where local or regional needs require action prior to completion of the initial regional water plan under this section.]~~

(e) Each regional water planning group shall submit to the board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the board under Section 16.051(d);

(2) provides information based on data provided or approved by the board in a format consistent with the guidelines provided by the board under Subsection (d);

(3) identifies:

(A) each source of water supply in the regional water planning area in accordance with the guidelines provided by the board under Subsections (d) and (f);

(B) factors specific to each source of water supply to be considered in determining whether to initiate a drought response; *and*

(C) actions to be taken as part of the response; ~~[and~~

~~[(D) information on water pipelines and other facilities that can be used for water conveyance, including, but not limited to, currently used and abandoned oil, gas, and water pipelines, as provided by board rules and guidelines;]~~

(4) has specific provisions for water management strategies to be used during a drought of record;

(5) includes but is not limited to consideration of the following:

(A) any existing water or drought planning efforts addressing all or a portion of the region;

(B) certified groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, acquisition of available existing water supplies, and development of new water supplies;

(D) protection of existing water rights in the region;

(E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;

(F) appropriate provision for environmental water needs and for the effect of up-stream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;

(G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;

(H) voluntary transfer of water within the region using, but not limited to, regional water banks, sales, leases, options, subordination agreements, and financing agreements; *and*

(I) emergency transfer of water under Section 11.139, including information on the part of each permit, certified filing, or certificate of adjudication for nonmunicipal use in

the region that may be transferred without causing unreasonable damage to the property of the nonmunicipal water rights holder;

(6) identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the regional water planning group recommends for protection under Section 16.051;

(7) assesses the impact of the plan on unique river and stream segments identified in Subdivision (6) if the regional water planning group or the legislature determines that a site of unique ecological value exists; and

(8) describes the impact of proposed water projects on water quality.

(e-1) On request of the Texas Water Advisory Council, a regional planning group shall provide the council a copy of that planning group's regional water plan.

SECTION 6. Section 17.183, Water Code, is amended to read as follows:

Sec. 17.183. CONSTRUCTION CONTRACT REQUIREMENTS. The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; and

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the political subdivision with approval of the executive administrator;

(5) that payment of the retainage remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the *executive administrator* [~~development fund manager~~] in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices;

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications; and

(7) that, if a political subdivision receiving financial assistance under Subchapter K of this chapter, labor from inside the political subdivision be used to the extent possible.

SECTION 7. Section 17.276(a), Water Code, is amended to read as follows:

(a) After an application is received for financial assistance, the *executive administrator* [~~development fund manager~~] shall submit the application to the board together with comments and recommendations concerning the best method of making financial assistance available.

SECTION 8. Section 30.003, Water Code, is amended by adding Subdivision (11) to read as follows:

(11) "Canal" means a man-made navigable channel or waterway of at least two miles in length.

SECTION 9. Sections 9.010, 9.011, 9.012, and 11.155(c), Water Code, are repealed.

SECTION 10. (a) The terms of public members serving on the Texas Water Advisory Council on the effective date of this Act expire on that date.

(b) As soon as practicable after the effective date of this Act, the governor shall appoint four members of the general public to the Texas Water Advisory Council as provided by Section 9.002, Water Code, as amended by this Act. The governor may reappoint a person who was serving on the council on the effective date of this Act. The newly appointed public members shall draw lots to determine which two members serve two-year terms and which two members serve three-year terms.

SECTION 11. This Act takes effect immediately if it receives a voto of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

Passed by the House on April 2, 2003: Yeas 143, Nays 0, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 1378 on May 30, 2003: Yeas 144, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 28, 2003: Yeas 31, Nays 0.

Approved June 20, 2003.

Effective June 20, 2003.

CHAPTER 1058

H.B. No. 1406

AN ACT

relating to a recommendation by a school district employee concerning a use of a psychotropic drug by a student or suggestion of a particular diagnosis and to refusal by a parent or certain other person to consent to administration of a psychotropic drug to a student or to psychiatric evaluation or examination of a student.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter A, Chapter 38, Education Code, is amended by adding Section 38.016 to read as follows:

Sec. 38.016. PSYCHOTROPIC DRUGS AND PSYCHIATRIC EVALUATIONS OR EXAMINATIONS. (a) *In this section:*

(1) "Parent" includes a guardian or other person standing in parental relation.

(2) "Psychotropic drug" means a substance that is:

(A) used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and

(B) intended to have an altering effect on perception, emotion, or behavior.

(b) A school district employee may not:

(1) recommend that a student use a psychotropic drug; or

(2) suggest any particular diagnosis; or

(3) use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

(c) Subsection (b) does not:

(1) prevent an appropriate referral under the child find system required under 20 U.S.C. Section 1412, as amended; or